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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,843	07/16/2003	Shaun Jeffrey Hensley	005127.00349	8804

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EXAMINER	
BROWN, JAYME L	

ART UNIT	PAPER NUMBER
1733	

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/620,843	HENSLEY ET AL.	
	Examiner	Art Unit	
	Jayme L. Brown	1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 November 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *12,14-28 and 30-41* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *12,14-28 and 30-41* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to the after final amendment submitted on 11/9/05 in light of further consideration to the prior art.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 12, 14, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gasbarro (U.S. Patent 4,829,682) in view of Tawney et al. (U.S. Patent 6,571,490).

Regarding claims 12 and 14, Gasbarro teaches a method of manufacturing a fluid filled chamber for an article of footwear comprising the steps of positioning a parison between a first portion and a corresponding second portion of a mold; shaping opposite sides of the parison to form the chamber within a cavity in the mold, the cavity having a shape of the chamber; and bonding the opposite sides of the parison together to define a parting line with a non-linear ("non-straight") and wave-like (See Figures 3 and 4) configuration (Column 2, line 29 – Column 3, line 11; Figure 6).

Gasbarro is silent towards a portion of the parting line being non-centrally located with respect to a first surface to an opposite second surface of the chamber. It is well known and conventional to have a non-centrally located parting line on the chamber as suggested by Tawney et al. One skilled in the art would readily appreciate having a non-centrally located parting line for aesthetic purposes and to increase the life of the chamber (bladder) by moving it away from areas of predicted high stresses (Column 21, lines 7-18; Figure 49, item 450). At the time of the invention, it would have been obvious for one of ordinary skill in the art to have a non-centrally located parting line in the method of Gasbarro, as modified above, as suggested by Tawney at al.

Regarding claim 20, it is well known and conventional that the step of shaping involves forming the chamber such that at least one surface of the chamber has a curved configuration as shown for example by Gasbarro (Figures 3 and 4).

4. Claims 15-18, 21-24, 26-28, 30-32, and 34-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Application 75100322 (from IDS) in view of Gasbarro (U.S. Patent 4,829,682) and the Admitted Prior Art.

Regarding claim 15 and 16, Application 75100322 teaches a foldable double-deck air cushion (chamber) for shoes (Figure 7; Page 10, line 30 – Page 12, line 4). Application 75100322 is silent toward the method of forming the air cushion including the step of providing the mold to have protrusions formed on one of the first portion and the second portion and having indentations formed in the other of the first portion and the second portion wherein the indentations are positioned to receive the protrusions

and that the indentations and protrusions are separate from the areas of the mold that form the chamber.

Gasbarro and Tawney et al. are relied upon for the teachings above. It is well known and conventional to have a mold with protrusions on one portion and indentations on the other portion wherein the indentations are positioned to receive the protrusions and that they are separate from the area of the mold that forms the chamber depicted by Application 75100322. One skilled in the art would readily appreciate needing a mold with an area that contains indentations and protrusions (contours) to form the air chamber groups (51, 61) and a different area (cavity) that forms the rest of the chamber (air cushion) that is shown by Application 75100322 (Figure 7). At the time the invention was made, it would have been obvious to one of ordinary skill in the art that using the conventional blow molding process of Gasbarro or the Admitted Prior Art in the method of making the air cushion of Application 75100322 would require using a mold with indentations and protrusions separate from the area that forms the chamber, since it is a conventional mold to use to form a chamber (air cushion).

Regarding claims 17 and 18, it is well known and conventional that bending the parison with the protrusions and indentations would also include extending it around the protrusions and into the indentations. One skilled in the art would readily appreciate that if a mold with indentation and protrusions is used to shape the parison, then the parison would be bent by the protrusions and indentations and also extend into the indentations and around the protrusion. At the time of the invention, it would have been obvious that the parison would be bent by the protrusions and indentations and also

extend around the protrusions and into the indentations in the method of making the air cushion of Application 75100322 as modified above.

Regarding claim 21, Application 75100322 teaches a foldable double-deck air cushion (chamber) for shoes wherein there is a first surface, a second surface, and a sidewall of the chamber, at least a first area of the sidewall being formed from the first side, the first area extending from the first surface to the second surface, and at least a second area of the sidewall being formed from the second side, the second area also extending from the first surface to the second surface. The parting line also has a non-linear ("non-straight") configuration (Figure 7, M-M).

Application 75100322 is silent toward the method of making the air cushion (chamber). Gasbarro et al. and the Admitted Prior Art teach a method of making a fluid-filled chamber comprising the steps of positioning a parison between a first portion and a corresponding second portion of a mold, the parison having a first side that faces the first portion and the parison having a second side that faces the second portion; bending the parison with contours of the mold as the first portion and the second portion translate to each other; shaping the parison; and bonding the first side of the parison to the second side of the parison to form a parting line with a non-linear configuration (Column 2, line 29 – Column 3, line 11; Figures 3, 4, and 6). One skilled in the art would have readily appreciated forming the chamber of Application 75100322 by the method of Gasbarro or the Admitted Prior Art as they are conventional practices in the art. It would have been obvious to one of ordinary skill in the art at the time the

invention was made to make the chamber of Application 75100322 by the method of Gasbarro or the Admitted Prior Art.

Regarding claims 22-24, the limitations are addressed above in claims 15, 16, and 18 wherein the protrusions and indentations are the contours of the mold.

Regarding claim 26, Application 75100322, Gasbarro, and the Admitted Prior Art are relied upon for the teaching above. Gasbarro teaches that the step of shaping involves forming the chamber such that at least one surface of the chamber has a curved configuration (Figures 3 and 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the chamber of Application 75100322 by the method of Gasbarro or the Admitted Prior Art as they are conventional methods.

Regarding claims 27, 28, 30, and 31, Application 75100322 teaches a parting line extending from the first surface to the second surface of the chamber and between the first area and the second area. Application 75100322 also teaches that the parting line in non-centrally located with respect to the first surface and the second surface of the chamber and that it has a non-linear and wave-like configuration (Figure 7, M-M).

One skilled in the art would have readily appreciated using the method of Gasbarro or the Admitted Prior Art with the corresponding mold and bonding steps to for the chamber of Application 75100322, since they are well known and conventional methods. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the chamber of Application 75100322 by the method of Gasbarro or the Admitted Prior Art.

Regarding claim 32, Application 75100322 teaches a foldable double-deck air cushion (chamber) for shoes wherein the sidewall of the chamber is formed by the first side and the second side of a parison being interlaced (Figure 7, M-M).

Application 75100322 is silent toward the method steps for forming the chamber. Gasbarro and the Admitted Prior Art teach the method steps wherein the limitations are addressed above in claims 21-24. One skilled in the art would have readily appreciated using the conventional method of Gasbarro or the Admitted Prior Art when making the chamber of Application 75100322. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the bladder of Application 75100322 by the method of Gasbarro or the Admitted Prior Art.

Regarding claim 34, the limitations are addressed above in claim 26.

Regarding claims 35 and 37-40, the limitations are addressed above in claims 21, 27, 30, and 31.

Regarding claim 36, Application 75100322 teaches having a parting line extending between the interlaced first side and second side (Figure 7, M-M). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the bladder of Application 75100322 by the method of Gasbarro or the Admitted Prior Art.

Regarding claim 41, the limitations are addressed above in claims 12 and 14-18.

5. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Swigart (U.S. Patent 6,457,262) in view of Gasbarro (U.S. Patent 4,829,682) and further in view of Tawney (U.S. Patent 6,571,490).

Regarding claim 19, Gasbarro and Tawney are relied upon for the teachings above in reference to claim 12. Swigart teaches a fluid-filled chamber (bladder) for an article of footwear as depicted in Figure 3A (See Abstract). Swigart teaches that the conventional blow molding process is one method for making the bladder (Column 5, lines 25-27).

Swigart is silent toward the steps of making the chamber including the step of shaping including forming the chamber having a plurality of lobes that extend outward from a central area of the chamber. It is well known and conventional that a chamber could have lobes that extend outward from the central area as depicted by Swigart (Figure 3A). One skilled in the art would have readily appreciated having a chamber with lobes for better fluid flow and stabilization (Swigart: Column 3, lines 38-53). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the lobed chamber of Swigart with the conventional blow molding process of Gasbarro, as modified above.

6. Claims 25 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Application 75100322 (from IDS) in view of Gasbarro (U.S. Patent 4,829,682) and the Admitted Prior Art, as applied to claims 15-18, 21-24, 26-28, 30-32, and 34-41 above, and further in view of Swigart (U.S. Patent 6,457,262).

Regarding claims 25 and 33, Application 75100322, Gasbarro, the Admitted Prior Art, and Swigart are relied upon for the teachings above. Application 75100322 is silent toward having a plurality of lobes that extend outward from a central area of the chamber. It is well known and conventional that a chamber could have lobes that extend outward from the central area as depicted by Swigart (Figure 3A). One skilled in the art would have readily appreciated having additional lobes in the chamber of Application 75100322 in order to have better fluid flow and stabilization (Swigart: Column 3, lines 38-53). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the chamber of Application 75100322 with lobes, as suggested by Swigart, in the method of Gasbarro or the Admitted Prior Art.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Jayme L. Brown** whose telephone number is **571-272-8386**. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jayme L. Brown

GLADYS J.P. CORCORAN
PRIMARY EXAMINER